

## FACT SHEET

APVR-RJA/Administrative Law  
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17 July 2008

1. SUBJECT: Gifts to Wounded and Ill Soldiers and Family Members

2. PURPOSE: To provide information on the new law allowing injured and ill Soldiers and their families to accept unsolicited gifts under certain conditions.

3. FACTS BEARING ON THE SUBJECT.

a. Section 8127 of the FY 2006 Defense Appropriations Act amended the Joint Ethics Regulation, DODD 5500.7-R, part 3-400, to authorize injured or ill Soldiers, including their families, to accept unsolicited gifts from non-Federal sources as long as such gifts fall within the restrictions and monetary limitations discussed below.

b. Who May Accept Gifts. In order to accept gifts under this authority, an individual must be a member of the Armed Forces (including Reserve and National Guard members on Title 10 orders), enlisted members of Reserves on inactive duty for training and all members of the National Guard performing official duties, who while on active duty on or after 11 September 2001, incurred an illness or injury:

(1) as a direct result of armed conflict;

(2) while engaged in hazardous service;

(3) in the performance of duty under conditions simulating war;

(4) through an instrumentality of war; or

(5) in an operation or area designated by the Secretary of Defense as a combat operation or combat zone.

b. Which Gifts May Be Accepted. The Soldiers described above, and their families, may accept unsolicited gifts under the following conditions:

(1) The gifts are not offered by foreign governments;

(2) The gifts are not accepted in return for being influenced in the performance of official duties;

(3) The gifts are not accepted in violation of any other statute (such as bribery and compensation from other sources for performing Federal duties); and

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(4) The gifts are within the monetary limits discussed below.

c. Monetary Limits. If the aggregate market value of the offered gifts exceed the maximum allowed from one source on any particular occasion (currently \$335) or from one source in a calendar year (currently \$1000), Soldiers and their families may only accept such gifts if an Ethics Counselor provides a written opinion stating that:

(1) the gift is not offered in a manner that discriminates among covered DoD employees on the basis of the type of official responsibility or of favoring those of higher rank or rate of pay;

(2) the donor does not have interests that may be affected substantially by the performance or nonperformance of the covered DoD employee's official duties; and

(3) acceptance would not cause a reasonable person with knowledge of the relevant facts to question the integrity of DoD programs or operations.

An Ethics Counselor may issue a blanket determination to cover all or any category of gifts to all or any group of covered Soldiers.

d. Additional Gift Authority. In a related authority, 10 USC sec. 2601(b) authorizes the Secretaries of the Department of Defense and Military Departments to accept from non-Federal entities donations of real or personal property, cash or services to be used for the benefit of all DOD personnel – including all members of the Armed Forces, Title 32-status National Guard personnel and DOD civilian employees – who incurred a wound, injury or illness while in the line of duty. Benefits of these donations also extend to the family members of wounded or deceased personnel.

4. **ACTION REQUIRED**. Anyone with questions concerning this information or needing advice on whether it is permissible to accept gifts to wounded Soldiers and their families should contact an Ethics Counselor in the Office of the Staff Judge Advocate.